

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MICHAEL M. PENNELL,

Petitioner,

v.

RONDA J. PASH,

Respondent.

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No. 4:16CV352 SPM

MEMORANDUM AND ORDER

This matter is before the Court on petitioner’s motion for appointment of counsel, as well as petitioner’s motion for extension of time to file an amended petition for writ of habeas corpus. After review of this action, petitioner’s motion for appointment of counsel will be denied without prejudice. However, petitioner’s motion for extension of time to file an amended petition will be granted.

In deciding whether to appoint counsel, this Court considers “the factual and legal complexity of the case, and the petitioner's ability both to investigate and to articulate his claims without court appointed counsel.” *Morris v. Dormire*, 217 F.3d 556, 558–59 (8th Cir.2000) (internal quotations omitted). “[T]here is neither a constitutional nor statutory right to counsel in habeas proceedings.” *Id.* at 558 (internal quotations omitted). Petitioner has pursued his claims at times pro se, or sometimes in combination with his assigned counsel, in his direct and post-conviction proceedings.¹ The record is fully developed; the legal issues are not complex or novel. Accordingly, petitioner’s motion for appointment of counsel will be denied.

¹The Court has reviewed these proceedings on Missouri.Case.Net. As evidenced in his appeal of his post-conviction proceedings, petitioner has a habit of claiming ineffective assistance of

However, petitioner's motion for extension of time to file his amended application for writ of habeas corpus will be granted. Petitioner will be given sixty (60) days from the date of this Memorandum and Order to file his amended petition on a court-form.

Accordingly,

IT IS HEREBY ORDERED that petitioner's motion for appointment of counsel [Doc. #7] is **DENIED** without prejudice.

IT IS FURTHER ORDERED that petitioner's motion for extension of time to file an amended application for writ of habeas corpus on a court-form [Doc. #9] is **GRANTED**.

IT IS FURTHER ORDERED that the Clerk of Court shall provide petitioner with a form for filing a "Petition under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a person in State Custody."

IT IS FURTHER ORDERED that petitioner shall complete, sign and return the form petition within sixty (60) days of the date of this Memorandum and Order.

IT IS FURTHER ORDERED that petitioner's failure to comply with this Court's Order will result in a dismissal of this action, without prejudice.



SHIRLEY PADMORE MENSAH
UNITED STATES MAGISTRATE JUDGE

Dated this 15th day of April, 2016.

appointed counsel, and/or abandonment of counsel, when counsel fail to make his proposed arguments that counsel have deemed legally frivolous.